

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

DANIEL HIMMEL, Individually and on
Behalf of All Others Similarly Situated,

Case No. 10-C-1104

Plaintiff,

CLASS ACTION

vs.

BUCYRUS INTERNATIONAL, INC., et al.,

Defendants.

CITY OF STERLING HEIGHTS POLICE &
FIRE RETIREMENT SYSTEM, Individually
and on Behalf of All Others Similarly
Situated,

Case No. 10-C-1106

CLASS ACTION

Plaintiff,

vs.

BUCYRUS INTERNATIONAL, INC., et al.,

Defendants.

EDMUND J. IMPENS, Individually and on
Behalf of All Others Similarly Situated,

Case No. 10-C-1179

CLASS ACTION

Plaintiff,

vs.

BUCYRUS INTERNATIONAL, INC., et al.,

Defendants.

DEFENDANTS' MOTION TO DISMISS THE SECOND AMENDED COMPLAINT

Defendants Bucyrus International, Inc., Timothy W. Sullivan, Theodore C. Rogers, Gene E. Little, Robert L. Purdum, Robert C. Scharp, Paul W. Jones, Robert K. Ortberg, Michelle L. Collins, Deepak T. Kapur, Caterpillar Inc. and Badger Merger Sub, Inc. (collectively, "Defendants") move this Court pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss, with prejudice, Lead Plaintiff City of Sterling Heights Police & Fire Retirement System's Second Amended Complaint (10-cv-1104, Dkt. 63) for failure to state a claim upon which relief can be granted. In support of this motion, Defendants respectfully submit the accompanying Brief in Support of Their Motion to Dismiss the Second Amended Complaint. For the reasons set forth therein, this Court should dismiss the Second Amended Complaint with prejudice.

Dated: January 12, 2012

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